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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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SONNIENSCHEIN NATH & ROSENTHAL LLP			EXAMINER	
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			03/30/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/043,888	STEINMAN ET AL.
<b>Examiner</b>	<b>Art Unit</b>	
Arthur Duran	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 04 March 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 10,13,20,22,23,56 and 57 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 10, 13, 20, 22, 23, 56, 57 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 10, 13, 20, 22, 23, 56, 57 have been examined.

***Response to Amendment***

2. The Amendment filed on 3/4/09 is insufficient to overcome the prior rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 13, 20, 22-23, 56, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fredrickson (US 2002/0019768 A1) in view of Goldhaber (5,794,210). Fredrickson et al. teaches of a method and system for managing advertisements.

3. Examiner notes that claims are given their broadest reasonable construction.

See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

4. Claims 10, 22, 23, 57: Regarding claims 10, 22, and 23, Fredrickson et al. teaches of a method, system, and computer code for managing advertisements on a website. Fredrickson et al. gives sample screen shots of the website in Figures 1-40. ([0009]-[0047]). Applicant teaches that a 'brand component' on a Web Page "may include a single logo or trademark or a trademark in conjunction with brief text

message." (2002/0143630, [0067]). Likewise, Fredrickson et al. shows a 'brand component' on a sample screen shot in Figure 21. (Fig. 21).

Fredrickson et al. shows a small form of an advertisement in another sample screen shot in Figure 22 as well as a large form of that advertisement in Figure 24. (Fig. 22; Fig. 24). Therefore, Fredrickson et al.'s screen shots show a brand component on a first web page (Fig. 21), a small form of an advertisement on a second web page (Fig. 22), and a large form of an advertisement on a third web page (Fig. 24).

Additionally, Fredrickson anticipates serving different forms of an advertisement and a brand component from the same sponsor on different pages of a website. Fredrickson anticipates serving a brand component associated with a sponsor on a first Web page.

Fredrickson discloses a wide variety of advertising and ad customizing (Abstract). Fredrickson further discloses a brand component version of an ad associated with a sponsor of a web page (Figure 2, "Ad Manager"; and also, Figure 31, "ABCompany"; Figure 12, "ABCompany"; Figure 22, "ABCompany"). Fredrickson further discloses a thumbnail version of an ad ([58]) and a banner version of an ad ([124]). Fredrickson further discloses controlling ad sizing ([126]). Fredrickson further discloses a small version of an ad (Figure 22) and also a large version of an ad (Figure 24). Fredrickson further discloses online advertising ([55]). Also, Examiner notes that an ad placed on a webpage functions as a sponsor for that webpage. Since a webpage receives revenues from ads placed on the webpage, an ad placed on a webpage functions as a sponsor of the webpage. Alternatively, an ad on a webpage is placed as

self-advertising by the actual host of the webpage (as in the Ad Manager example, Figure 2). Either way, an ad on a webpage functions as an ad of a sponsor of the webpage. And, Fredrickson discloses an ad which is a brand component, and an ad which is small and an ad which is large. Hence, Fredrickson anticipates a brand component ad of a page sponsor, a small ad of a page sponsor, and a large ad of a page sponsor.

And, Fredrickson discloses numerous versions and sizes of the Ad for ABCCompany (Figures 12, 22, 24, 28, 29, 30, 31, 35, 40). Note that these are different versions and forms and sizes of ads placed by ABCCompany and that all of these ads feature the ABCCompany logo in them. Hence, Fredrickson anticipates a brand component for ABCCompany (Figure 31); a small ad for ABCCompany (Figure 22); and a large ad for ABCCompany (Figure 24). And, Fredrickson discloses that these ads can be placed online ([55]). And, online advertisers function as a sponsor of the webpages on which they advertise.

Hence, Fredrickson discloses an advertiser/sponsor placing a brand component, a small ad, and a large ad on different webpages.

Additionally, Fredrickson discloses serving a brand component (Fig. 31), a small form of an advertisement (Fig. 22) and a large form of the same advertisement (Fig. 24), all provided from the same sponsor and all provided on separate web pages. Notice that the brand component and ads are all for the same ABC company. And, notice that the brand component in Fig. 31 ("ABC Company" across the talking/thinking duck in Fig. 31) is on one webpage. And, a small form of the ABC Company ad that says Boss is on

a webpage (Fig. 22) and that a large form of that same ABC Company ad that says Boss is on a separate webpage (Fig. 24).

Hence, Fredrickson discloses an advertiser/sponsor placing a brand component, and also a small version of an ad, and a large version of the same small ad on different webpages.

Hence, Fredrickson discloses these features of the Applicant's claims.

Also, in further regards to the preceding, note that these ads of Fredrickson can be placed online ([55]). And, online advertisers function as a sponsor of the webpages on which they advertise.

Additionally, the following is in regards to the advertising viewing confirmation features added to the independent claims on 10/30/2008.

Fredrickson discloses an advertisement order confirmation page (Fig.'s 24-25; [0032]). The confirmation page shows the original advertisements that were displayed to the user and confirms the user's order. ([0121]). Therefore, a user who accepts the order is confirming that they have viewed the advertisement prior to publication. Hence, Fredrickson discloses confirming that the user placing the ad sees the ad.

Fredrickson does not explicitly disclose serving, for a fixed period of time, a fourth Web page requesting confirmation of a viewing by a user of at least one of said brand component, said small form of said advertisement, and said large form of said advertisement (where the user is the user being advertised to).

However, as shown above, Fredrickson shows screen shots of displaying a brand component, small form of an advertisement, large form of an advertisement, and a confirmation page. (Fig.'s 1-40).

And, Fredrickson further discloses using the Internet, Internet advertisements as well as a variety of types of advertisements (claim 4).

And, Goldhaber discloses a variety of attention tests to better assure that a user paid attention to advertising (claims 14, 54, 56). And, while Goldhaber does not explicitly disclose that the attention test can be timed or presented for a fixed period of time, Applicant's Background states that displaying content for a fixed period of time is obvious, old and well known ([7]). Also, it is obvious, old and well known that quizzes or tests can be timed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Goldhaber's advertising attention tests or quizzes and that the attention tests can be presented for a fixed period of time to Fredrickson's presenting advertising to a user. One would have been motivated to do this in order to better assure that a user pays attention to advertising.

Additionally, the prior art discloses an attention test separate or after an advertisement or an attention test on a different web page than the advertisement. And, it is the combination of Frederickson in view of Goldhaber that renders these features obvious.

Frederickson was relied on to show, as written in the rejection above, "as shown above, Fredrickson shows screen shots of displaying a brand component, small form of an advertisement, large form of an advertisement, and a confirmation page. (Fig.'s 1-

40)." Hence, Frederickson shows the separate small advertisement page, separate large advertisement page, and separate confirmation page.

And, Goldhaber was relied on to show that Frederickson's separate confirmation page can have an attention test to confirm that the user saw the priorly presented advertising. Also, note that Goldhaber discloses that the attention test need not be concurrent with the advertisement. Rather, Goldhaber discloses that the attention test can be presented After the advertisement is presented: "[claim] 54. A method as in claim 45 wherein said negatively priced information comprises a form of attention test for previously delivered information; and wherein step (5) further includes the step of responding to said attention test." Note that the attention test is for previously delivered information.

Hence, Frederickson discloses an advertisement page and then a separate confirmation page. And, Goldhaber discloses presenting information/advertising and then an attention test for previously delivered information/advertising. Hence, it is obvious that Frederickson's confirmation page can include Goldhaber's attention test for previously delivered information/advertising. And, it is obvious that the attention test that tests previously delivered information/advertising can test Frederickson's advertisement page that was presented previous to Frederickson's confirmation page.

Hence, the combination of the prior art renders obvious presenting an advertisement page and then a confirmation page where the confirmation page has an attention test for the advertising presented.

5. Claim 13: Fredrickson shows in Figure 5 thumbnail versions of advertisements. (Fig. 5; [0058]). If a user wants to view the actual advertisement, a user clicks on the thumbnail to be connected to another page to see the full advertisement. ([0058]). Providing a clickable advertisement thumbnail is an indication of an opportunity to view.

6. Claim 20: Fredrickson discloses a Figure 24 which shows a scroll bar which indicates that the web page is scrollable by the user (Fig. 24).

Claim 56: Fredrickson discloses that the advertisement can be displayed for a fixed period of time ([6, 79, 80, 81, 84, 156, 158]). Also, note that Fredrickson discloses Internet advertisements as well as a variety of types of advertisements (claim 4). Also, Applicant's Background states that displaying advertisements for a fixed period of time is obvious, old and well known ([7]).

Claim 57: Fredrickson discloses receiving an indication of a willingness to view at least one of said brand component, said small form of said advertisement, and said large for of said advertisement (Fig 6., "Current Week's Results", "View. . # of responses"). And, regarding the confirmation of viewing features, please see the rejection of the independent claims above.

#### ***Response to Arguments***

7. Applicant's arguments with respect to the claims have been considered but are not found persuasive.

On page 2 of the Applicant's Remarks dated 3/4/09, Applicant states that the prior art does not render obvious serving a small form of an advertisement and a large form of the same advertisement.

However, the rejection dated 12/10/2008 specifically addressed these features with detailed citations. Please see the repeated rejection above and also note the quote below which is taken from the rejection above:

"Additionally, Fredrickson discloses serving a brand component (Fig. 31), a small form of an advertisement (Fig. 22) and a large form of the same advertisement (Fig. 24), all provided from the same sponsor and all provided on separate web pages. Notice that the brand component and ads are all for the same ABC company. And, notice that the brand component in Fig. 31 ("ABC Company" across the talking/thinking duck in Fig. 31) is on one webpage. And, a small form of the ABC Company ad that says Boss is on a webpage (Fig. 22) and that a large form of that same ABC Company ad that says Boss is on a separate webpage (Fig. 24).

Hence, Fredrickson discloses an advertiser/sponsor placing a brand component, and also a small version of an ad, and a large version of the same small ad on different webpages."

On page 4 of the Applicant's Remarks dated 3/4/09, Applicant states that Goldhaber does not disclose an attention test separate from or after an advertisement or an attention test on a different web page than the advertisement.

However, Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to. Also, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

And, it is the combination of Frederickson in view of Goldhaber that renders these features obvious.

And, Frederickson was relied on to show, as written in the rejection above, "as shown above, Frederickson shows screen shots of displaying a brand component, small form of an advertisement, large form of an advertisement, and a confirmation page. (Fig.'s 1-40)." Hence, Frederickson shows the separate small advertisement page, separate large advertisement page, and separate confirmation page.

And, Goldhaber was relied on to show that Frederickson's separate confirmation page can have an attention test to confirm that the user saw the priorly presented advertising. Also, note that Goldhaber discloses that the attention test need not be concurrent with the advertisement. Rather, Goldhaber discloses that the attention test can be presented After the advertisement is presented: "[claim] 54. A method as in claim 45 wherein said negatively priced information comprises a form of attention test for previously delivered information; and wherein step (5) further includes the step of responding to said attention test." Note that the attention test is for previously delivered information.

Hence, Frederickson discloses an advertisement page and then a separate confirmation page. And, Goldhaber discloses presenting information/advertising and then an attention test for previously delivered information/advertising. Hence, it is obvious that Frederickson's confirmation page can include Goldhaber's attention test for

previously delivered information/advertising. And, it is obvious that the attention test that tests previously delivered information/advertising can test Frederickson's advertisement page that was presented previous to Frederickson's confirmation page.

Hence, the combination of the prior art renders obvious presenting an advertisement page and then a confirmation page where the confirmation page has an attention test for the advertising presented.

Hence, the prior art renders obvious the Applicant's claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571)272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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3/25/2009